

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LAMONTE CHERRY,

Petitioner,

- against -

GARY A. FILLION,

Respondent.

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ORDER

Civil Action No.
CV-01-8240 (DGT)

TRAGER, J.:

On December 4, 2001, petitioner filed the above-captioned case seeking a writ of habeas corpus for alleged constitutional violations stemming from his state court conviction for manslaughter in the first degree and criminal possession of a weapon in the second degree. The petition was referred to United States Magistrate Judge Lois Bloom for a Report and Recommendation.

On December 28, 2005, Judge Bloom issued a Report and Recommendation recommending that the petition be denied. No objection to this Report and Recommendation has been filed with the court. After an independent review, it is hereby

ORDERED that the Court adopts the Report and Recommendation. A certificate of appealability shall not issue because petitioner has not demonstrated a substantial showing of a constitutional violation. See 28 U.S.C. § 2253(c)(2). The Clerk of the Court is directed to close the case.

Dated: Brooklyn, New York
March 13, 2006

SO ORDERED:

/s/
David G. Trager
United States District Judge

SENT TO:

Hon. Lois Bloom
United States Magistrate Judge

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